

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Chaun'te Tevelle Eppes, # 247788,

Plaintiff,

v.

**Jon Ozmint, Leroy Cathlage, Scott Lewis,
Captain Brazil, Scott Deckeron, Lieutenant
Crouch, Sgt. McCurry and Officer Brown,**

Defendants.

C/A No. 9:05-0203-CMC-GCK

ORDER

Plaintiff filed this action pursuant to 42 U.S.C. § 1983 alleging that his constitutional rights were violated when he was given a haircut and shave against his will during the period he was housed in the Special Management Unit at McCormick Correctional Institution of the South Carolina Department of Corrections. Defendants filed a motion for summary judgment. Plaintiff was advised by court order of the summary judgment procedure and the possibility of dismissal of the case if no response was filed. The record shows that Plaintiff did not respond despite the fact that he was given an additional 20 days to do so by court order. In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge George Kosko for a Report and Recommendation.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

Based on his review of the record, the Magistrate Judge has recommended that this action

be dismissed for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b). *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

After reviewing the Complaint, the motion, and the Report and Recommendation of the Magistrate Judge, the court agrees with the recommendation of the Magistrate Judge. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that this action is **DISMISSED** for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
October 4, 2005

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